

104TH CONGRESS
2D SESSION

S. 1535

To strengthen enforcement of the immigration laws of the United States,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 26, 1996

Mr. ABRAHAM introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To strengthen enforcement of the immigration laws of the
United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Illegal Immigration
5 Control and Enforcement Act of 1996”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—BORDER ENFORCEMENT

Sec. 101. Border patrol agents.

Sec. 102. Authority to acquire Federal equipment for border.

★(Star Print)

TITLE II—VISA DEPARTURE-DATE ENFORCEMENT

- Sec. 201. Automated entry-exit control system.
- Sec. 202. Civil penalties for failure to depart.
- Sec. 203. Investigators.

TITLE III—ALIEN SMUGGLING; DOCUMENT FRAUD

- Sec. 301. Wiretap authority for investigations of alien smuggling or document fraud.
- Sec. 302. Adding to RICO certain offenses relating to alien smuggling or document fraud.
- Sec. 303. Increased criminal penalties for alien smuggling.
- Sec. 304. Admissibility of videotaped witness testimony.
- Sec. 305. Expanded forfeiture for alien smuggling or document fraud.
- Sec. 306. Criminal forfeiture for alien smuggling or document fraud.
- Sec. 307. Civil penalties for bringing inadmissible aliens from contiguous territories.
- Sec. 308. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 309. Criminal penalty for false statement in a document required under the immigration laws or knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 310. New criminal penalties for failure to disclose role as preparer of false application for asylum or for preparing certain post-conviction applications.
- Sec. 311. New civil penalties for document fraud.
- Sec. 312. Changes in list of acceptable employment-verification documents.

TITLE IV—CRIMINAL ALIENS

- Sec. 401. Amended definition of aggravated felony.
- Sec. 402. Judicial review of orders of exclusion or deportation entered against criminal aliens.
- Sec. 403. Limitations on relief from exclusion and deportation.
- Sec. 404. Ineligibility of certain criminal aliens for adjustment of status.
- Sec. 405. Expeditious deportation creates no enforceable right for aggravated felons.
- Sec. 406. Custody of aliens convicted of felonies.
- Sec. 407. Judicial deportation.
- Sec. 408. Stipulated exclusion or deportation.
- Sec. 409. Deportation as a condition of probation.
- Sec. 410. Annual report on criminal aliens.
- Sec. 411. Undercover investigation authority.
- Sec. 412. Prisoner transfer treaties.
- Sec. 413. Prisoner transfer treaties study.
- Sec. 414. Using alien for immoral purposes, filing requirement.
- Sec. 415. Technical corrections to Violent Crime Control Act and Technical Corrections Act.

TITLE V—WELFARE ELIGIBILITY

- Sec. 501. Ineligibility of excludable, deportable, and nonimmigrant aliens.
- Sec. 502. Definition of “public charge” for purposes of deportation.
- Sec. 503. Requirements for sponsor’s affidavit of support.
- Sec. 504. Attribution of sponsor’s income and resources to family-sponsored immigrants.

Sec. 505. Authority to States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.

Sec. 506. Earned income tax credit denied to individuals not a citizen or lawful permanent resident.

Sec. 507. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.

Sec. 508. State option under the medicaid program to place anti-fraud investigators in hospitals.

Sec. 509. Limitation on the award of costs and fees.

Sec. 510. Computation of targeted assistance.

TITLE VI—EFFECTIVE DATES

Sec. 601. Effective dates.

1 **TITLE I—BORDER** 2 **ENFORCEMENT**

3 **SEC. 101. BORDER PATROL AGENTS.**

4 The Attorney General, in each of the fiscal years
5 1996, 1997, 1998, 1999, and 2000—

6 (1) shall increase by no less than 900 the num-
7 ber of positions for full-time, active-duty Border Pa-
8 trol agents within the Immigration and Naturaliza-
9 tion Service above the number of such positions for
10 which funds were allotted for the preceding fiscal
11 year; and

12 (2) may increase by not more than 375 the
13 number of positions for personnel in support of Bor-
14 der Patrol agents above the number of such posi-
15 tions for which funds were allotted for the preceding
16 fiscal year.

1 **SEC. 102. AUTHORITY TO ACQUIRE FEDERAL EQUIPMENT**
2 **FOR BORDER.**

3 In order to facilitate or improve the detection, inter-
4 diction, and reduction by the Immigration and Naturaliza-
5 tion Service of illegal immigration into the United States,
6 the Attorney General is authorized to acquire and utilize
7 any Federal equipment (including, but not limited to,
8 fixed-wing aircraft, helicopters, four-wheel drive vehicles,
9 sedans, night vision goggles, night vision scopes, and sen-
10 sor units) determined available for transfer to the Depart-
11 ment of Justice by any other agency of the Federal Gov-
12 ernment upon request of the Attorney General.

13 **TITLE II—VISA DEPARTURE-**
14 **DATE ENFORCEMENT**

15 **SEC. 201. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.**

16 Not later than 2 years after the date of the enact-
17 ment of this Act, the Attorney General shall implement
18 an automated entry and exit control system that will en-
19 able the Attorney General to identify, through on-line
20 searching procedures, lawfully admitted nonimmigrants
21 who remain in the United States beyond the period au-
22 thorized by the Attorney General.

23 **SEC. 202. CIVIL PENALTIES FOR FAILURE TO DEPART.**

24 (a) PROHIBITION.—Any lawfully admitted non-
25 immigrant who remains in the United States for more
26 than 60 days beyond the period authorized by the Attor-

1 ney General shall be ineligible for additional nonimmigrant
2 or immigrant visas until the date that is—

3 (1) 3 years after the date the nonimmigrant de-
4 parts the United States in the case of a non-
5 immigrant not described in paragraph (2); or

6 (2) 5 years after the date the nonimmigrant
7 departs the United States in the case of a non-
8 immigrant who without reasonable cause fails or re-
9 fuses to attend or remain in attendance at a pro-
10 ceeding to determine the nonimmigrant's deport-
11 ability.

12 (b) EXCEPTION.—(1) Subsection (a) shall not apply
13 to any lawfully admitted nonimmigrant who is described
14 in subsection (a)(1) and who demonstrates good cause for
15 remaining in the United States for the entirety of the pe-
16 riod (other than the first 60 days) during which the non-
17 immigrant remained in the United States without the au-
18 thorization of the Attorney General.

19 (2) A final order of deportation shall not be stayed
20 on the basis of a claim of good cause made under this
21 subsection.

22 (c) EFFECTIVE DATE.—Subsections (a) and (b) shall
23 take effect on the date of implementation of the automated
24 entry-exit control system described in section 201, or on

1 the date that is 2 years after the date of enactment of
 2 this Act, whichever is earlier.

3 (d) IMPLEMENTATION.—The Attorney General shall
 4 establish procedures necessary to implement this section.

5 **SEC. 203. INVESTIGATORS.**

6 (a) AUTHORIZATION.—There are authorized to be ap-
 7 propriated to the Department of Justice such funds as
 8 may be necessary to enable the Commissioner of the Immi-
 9 gration and Naturalization Service to increase the number
 10 of investigators and support personnel to investigate po-
 11 tential violations of this section by a number equivalent
 12 to 300 full-time active-duty investigators in each of the
 13 fiscal years 1996, 1997, and 1998.

14 (b) LIMITATION ON OVERTIME.—None of the funds
 15 made available to the Immigration and Naturalization
 16 Service under this section shall be available for adminis-
 17 trative expenses to pay any employee overtime pay in an
 18 amount in excess of \$25,000 for any fiscal year.

19 **TITLE III—ALIEN SMUGGLING;**
 20 **DOCUMENT FRAUD**

21 **SEC. 301. WIRETAP AUTHORITY FOR INVESTIGATIONS OF**
 22 **ALIEN SMUGGLING OR DOCUMENT FRAUD.**

23 Section 2516(1) of title 18, United States Code, is
 24 amended—

1 (1) in paragraph (c), by inserting after
2 “trains)” the following: “, or a felony violation of
3 section 1028 (relating to production of false identi-
4 fication documentation), section 1425 (relating to
5 the procurement of citizenship or nationalization un-
6 lawfully), section 1426 (relating to the reproduction
7 of naturalization or citizenship papers), section 1427
8 (relating to the sale of naturalization or citizenship
9 papers), section 1541 (relating to passport issuance
10 without authority), section 1542 (relating to false
11 statements in passport applications), section 1543
12 (relating to forgery or false use of passports), and
13 section 1546 (relating to fraud and misuse of visas,
14 permits, and other documents)”;

15 (2) by striking “or” after paragraph (l);

16 (3) by redesignating paragraphs (m), (n), and
17 (o) as paragraphs (n), (o), and (p), respectively; and

18 (4) by inserting after paragraph (1) the follow-
19 ing new paragraph:

20 “(m) a violation of section 274, 277, or 278 of the
21 Immigration and Nationality Act (8 U.S.C. 1324, 1327,
22 or 1328) (relating to the smuggling of aliens);”.

1 **SEC. 302. ADDING TO RICO CERTAIN OFFENSES RELATING**
2 **TO ALIEN SMUGGLING OR DOCUMENT**
3 **FRAUD.**

4 Section 1961(1) of title 18, United States Code, is
5 amended—

6 (1) by striking “or” after “law of the United
7 States,”;

8 (2) by inserting “or” at the end of clause (E);
9 and

10 (3) by adding at the end the following:

11 “(F) any act, or conspiracy to commit any
12 act, in violation of section 1028 (relating to
13 production of false identification documenta-
14 tion), section 1425 (relating to the procurement
15 of citizenship or nationalization unlawfully),
16 section 1426 (relating to the reproduction of
17 naturalization or citizenship papers), section
18 1427 (relating to the sale of naturalization or
19 citizenship papers), section 1541 (relating to
20 passport issuance without authority), section
21 1542 (relating to false statements in passport
22 applications), section 1543 (relating to forgery
23 or false use of passports), and section 1546 (re-
24 lating to fraud and misuse of visas, permits,
25 and other documents) of this title, for personal

1 financial gain, and section 274, 277, or 278 of
 2 the Immigration and Nationality Act.”.

3 **SEC. 303. INCREASED CRIMINAL PENALTIES FOR ALIEN**
 4 **SMUGGLING.**

5 (a) IN GENERAL.—Section 274(a) (8 U.S.C.
 6 1324(a)) is amended—

7 (1) in paragraph (1)(A)—

8 (A) by striking “or” at the end of clause
 9 (iii);

10 (B) by striking the comma at the end of
 11 clause (iv) and inserting “; or”; and

12 (C) by adding at the end the following new
 13 clause:

14 “(v)(I) engages in any conspiracy to
 15 commit any of the preceding acts, or

16 “(II) aids or abets the commission of
 17 any of the preceding acts,”;

18 (2) in paragraph (1)(B)—

19 (A) in clause (i), by inserting “or (v)(I)”
 20 after “(A)(i)”;

21 (B) in clause (ii), by striking “or (iv)” and
 22 inserting “(iv), or (v)(II)”;

23 (C) in clause (iii), by striking “or (iv)” and
 24 inserting “(iv), or (v)”;

1 (D) in clause (iv), by striking “or (iv)” and
2 inserting “(iv), or (v)”;

3 (3) in paragraph (2), by striking “for each
4 transaction constituting a violation of this para-
5 graph, regardless of the number of aliens involved”
6 and inserting “for each alien in respect to whom a
7 violation of this paragraph occurs”;

8 (4) in paragraph (2), at the end thereof, by
9 striking “be fined” and all that follows through the
10 period and inserting the following: “be fined under
11 title 18, United States Code, and shall be impris-
12 oned for a first offense not less than 3 years or more
13 than 10 years, imprisoned for a second offense not
14 less than 5 years or more than 10 years, and impris-
15 oned for subsequent offenses not less than 10 years
16 or more than 15 years.”; and

17 (5) by adding at the end the following new
18 paragraph:

19 “(3) Any person who hires for employment an
20 alien—

21 “(A) knowing that such alien is an unau-
22 thorized alien (as defined in section
23 274A(h)(3)), and

24 “(B) knowing that such alien has been
25 brought into the United States in violation of

1 this subsection, shall be fined under title 18,
2 United States Code, and shall be imprisoned for
3 not less than 2 years or more than 5 years.”.

4 (b) SMUGGLING OF ALIENS WHO WILL COMMIT
5 CRIMES.—Section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)) is
6 amended—

7 (1) by striking “or” at the end of clause (ii);

8 (2) by redesignating clause (iii) as clause (iv);

9 and

10 (3) by inserting after clause (ii) the following:

11 “(iii) an offense committed with the
12 intent, or with substantial reason to be-
13 lieve, that the alien unlawfully brought into
14 the United States will commit an offense
15 against the United States or any State
16 punishable by imprisonment for more than
17 1 year;”.

18 (c) SENTENCING GUIDELINES.—Pursuant to section
19 994 of title 28, United States Code, and section 21 of the
20 Sentencing Act of 1987, the United States Sentencing
21 Commission shall promulgate guidelines or amend existing
22 guidelines to provide that an offender convicted of smug-
23 gling, transporting, or harboring an unlawful alien under
24 dangerous or inhumane conditions in violation of section
25 274(a)(2)(B)(ii) of the Immigration and Nationality Act

1 (8 U.S.C. 1324(a)(2)(B)(ii)) shall be assigned a base of-
 2 fense level under chapter 2 of the sentencing guidelines
 3 that is—

4 (1) in the case of a first offense, not lower than
 5 22;

6 (2) in the case of an offender with one prior fel-
 7 ony conviction, not lower than 26;

8 (3) in the case of an offender with two prior fel-
 9 ony convictions, not lower than 32;

10 (4) in the case of bodily injury to such alien or
 11 any other person, a required enhancement of be-
 12 tween 2 and 6 offense levels, in proportion to the se-
 13 verity of the injury inflicted; and

14 (5) in the case of the death of such alien or any
 15 other person, not lower than 41.

16 (d) EFFECTIVE DATE.—This section and the amend-
 17 ments made by this section shall apply with respect to of-
 18 fenses occurring on or after the date of enactment of this
 19 Act.

20 **SEC. 304. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTI-**
 21 **MONY.**

22 Section 274 (8 U.S.C. 1324) is amended by adding
 23 at the end thereof the following:

24 “(d) Notwithstanding the provisions of the Federal
 25 Rules of Evidence, the videotaped (or otherwise audio-

1 visually preserved) deposition of a witness to a violation
 2 of subsection (a) who has been deported or otherwise ex-
 3 pelled from the United States, or is otherwise unable to
 4 testify, may be admitted into evidence in an action brought
 5 for that violation if the witness was available for cross ex-
 6 amination and the deposition otherwise complies with the
 7 Federal Rules of Evidence.”.

8 **SEC. 305. EXPANDED FORFEITURE FOR ALIEN SMUGGLING**
 9 **OR DOCUMENT FRAUD.**

10 (a) IN GENERAL.—Section 274(b) (8 U.S.C.
 11 1324(b)) is amended—

12 (1) by amending paragraph (1) to read as fol-
 13 lows:

14 “(1) Any property, real or personal, which fa-
 15 cilitates or is intended to facilitate, or has been or
 16 is being used in or is intended to be used in the
 17 commission of, a violation of subsection (a) or of
 18 section 1028, 1425, 1426, 1427, 1541, 1542, 1543,
 19 1544, or 1546 of title 18, United States Code, or
 20 which constitutes, or is derived from or traceable to,
 21 the proceeds obtained directly or indirectly from a
 22 commission of a violation of subsection (a) or of sec-
 23 tion 1028, 1425, 1426, 1427, 1541, 1542, 1543, or
 24 1546 of title 18, United States Code, shall be sub-
 25 ject to seizure and forfeiture, except that—

1 “(A) no property used by any person as a
2 common carrier in the transaction of business
3 as a common carrier shall be forfeited under
4 the provisions of this section unless it shall ap-
5 pear that the owner or other person in charge
6 of such property was a consenting party or
7 privy to the unlawful act;

8 “(B) no property shall be forfeited under
9 the provisions of this section by reason of any
10 act or omission established by the owner thereof
11 to have been committed or omitted by any per-
12 son other than such owner while such property
13 was unlawfully in the possession of a person
14 other than the owner in violation of the crimi-
15 nal laws of the United States or of any State;
16 and

17 “(C) no property shall be forfeited under
18 this paragraph to the extent of an interest of
19 any owner, by reason of any act or omission es-
20 tablished by that owner to have been committed
21 or omitted without the knowledge or consent of
22 the owner, unless such action or omission was
23 committed by an employee or agent of the
24 owner, and facilitated or was intended to facili-
25 tate, or was used in or intended to be used in,

1 the commission of a violation of subsection (a)
2 or of section 1028, 1425, 1426, 1427, 1541,
3 1542, 1543, or 1546 of title 18, United States
4 Code, which was committed by the owner or
5 which was intended to further the business in-
6 terests of the owner, or to confer any other ben-
7 efit upon the owner.”;

8 (2) in paragraph (2)—

9 (A) by striking “conveyance” both places it
10 appears and inserting “property”; and

11 (B) by striking “is being used in” and in-
12 serting “is being used in, is facilitating, has fa-
13 cilitated, or was intended to facilitate”;

14 (3) in paragraph (3)—

15 (A) by inserting “(A)” immediately after
16 “(3)”, and

17 (B) by adding at the end the following:

18 “(B) Before the seizure of any real prop-
19 erty pursuant to this section, the Attorney Gen-
20 eral shall provide notice and an opportunity to
21 be heard to the owner of the property. The At-
22 torney General shall prescribe such regulations
23 as may be necessary to carry out this subpara-
24 graph.”;

1 (4) in paragraphs (4) and (5), by striking “a
 2 conveyance” and “conveyance” each place such
 3 phrase or word appears and inserting “property”;
 4 and

5 (5) in paragraph (4)—

6 (A) by striking “or” at the end of subpara-
 7 graph (C),

8 (B) by striking the period at the end of
 9 subparagraph (D) and inserting “; or”, and

10 (C) by inserting at the end the following
 11 new subparagraph:

12 “(E) transfer custody and ownership of
 13 forfeited property to any Federal, State, or
 14 local agency pursuant to section 616(c) of the
 15 Tariff Act of 1930 (19 U.S.C. 1616a(c)).”.

16 (b) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply with respect to offenses occurring
 18 on or after the date of enactment of this Act.

19 **SEC. 306. CRIMINAL FORFEITURE FOR ALIEN SMUGGLING**
 20 **OR DOCUMENT FRAUD.**

21 Section 274 (8 U.S.C. 1324(b)) is amended by redes-
 22 ignating subsection (c) as subsection (d) and inserting
 23 after subsection (b) the following:

24 “(c) CRIMINAL FORFEITURE.—(1) Any person con-
 25 victed of a violation of subsection (a) or of section 1028,

1 1425, 1426, 1427, 1541, 1542, 1543, or 1546 of title 18,
2 United States Code, shall forfeit his interest to the United
3 States, irrespective of any provision of State law—

4 “(A) any conveyance, including any vessel, vehi-
5 cle, or aircraft used in the commission of a violation
6 of subsection (a); and

7 “(B) any property real or personal—

8 “(i) that constitutes, or is derived from or
9 is traceable to the proceeds obtained directly or
10 indirectly from the commission of a violation of
11 subsection (a) or of section 1028, 1425, 1426,
12 1427, 1541, 1542, 1543, or 1546 of title 18,
13 United States Code; or

14 “(ii) that is used to facilitate, or is in-
15 tended to be used to facilitate, the commission
16 of a violation of subsection (a) or of section
17 1028, 1425, 1426, 1427, 1541, 1542, 1543, or
18 1546 of title 18, United States Code.

19 The court, in imposing sentence on such person, shall
20 order that the person forfeit to the United States all prop-
21 erty described in this subsection.

22 “(2) The criminal forfeiture of property under this
23 subsection, including any seizure and disposition of the
24 property and any related administrative or judicial pro-
25 ceeding, shall be governed by the provisions of section 413

1 of the Comprehensive Drug Abuse Prevention and Control
 2 Act of 1970 (21 U.S.C. 853), except for subsections (a)
 3 and (d) of such section 413, which subsections shall not
 4 apply to forfeitures under this subsection.”.

5 **SEC. 307. CIVIL PENALTIES FOR BRINGING INADMISSIBLE**
 6 **ALIENS FROM CONTIGUOUS TERRITORIES.**

7 (a) INCREASED PENALTIES.—Section 273 (8 U.S.C.
 8 1323) is amended by—

9 (1) striking “(other than from foreign contig-
 10 uous territory)” in subsection (a); and

11 (2) striking “\$3,000” and inserting “\$5,000”
 12 in subsection (b).

13 (b) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply with respect to offenses occurring
 15 on or after the date of enactment of this Act.

16 **SEC. 308. INCREASED CRIMINAL PENALTIES FOR FRAUDU-**
 17 **LENT USE OF GOVERNMENT-ISSUED DOCU-**
 18 **MENTS.**

19 (a) PENALTIES FOR FRAUD AND MISUSE OF GOV-
 20 ERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1)
 21 Sections 1028(b) of title 18, United States Code, is
 22 amended to read as follows:

23 “(b)(1) Subject to paragraph (4), an offense under
 24 subsection (a) which is—

1 “(A) the production or transfer of an identifica-
2 tion document or false identification document that
3 is or appears to be—

4 “(i) an identification document issued by
5 or under the authority of the United States, or

6 “(ii) a birth certificate, or a driver’s license
7 or personal identification card,

8 “(B) the production or transfer of more than
9 five identification documents or false identification
10 documents,

11 “(C) an offense under paragraph (5) of such
12 subsection, or

13 “(D) used to obtain a Federal benefit;
14 shall be punishable by—

15 “(I) a fine under this title or imprisonment for
16 not more than 10 years, or both, for a first offense,
17 if the offender is under 21 years of age at the time
18 of the offense,

19 “(II) a fine under this title or imprisonment for
20 not less than two and one-half years or more than
21 10 years, or both, for a first offense, if the offender
22 is 21 years of age or older at the time of the offense,

23 “(III) a fine under this title or imprisonment
24 for not less than 5 years or more than 10 years, or
25 both, for a second offense, or

1 “(IV) a fine under this title or imprisonment
2 for not less than 10 years or more than 15 years,
3 or both, for a third or subsequent offense.

4 “(2) An offense under subsection (a) which is—

5 “(A) any other production or transfer of an
6 identification document or false identification docu-
7 ment, or

8 “(B) an offense under paragraph (3) of such
9 subsection,

10 shall be punishable by a fine under this title or imprison-
11 ment for not more than three years, or both.

12 “(3) An offense under subsection (a) other than an
13 offense described in paragraph (1) or (2) shall be punish-
14 able by a fine under this title or imprisonment for not
15 more than one year, or both.

16 “(4) The maximum term of imprisonment that may
17 be imposed for an offense described under subparagraph
18 (A), (B), or (C) of paragraph (1)—

19 “(A) if committed to facilitate a drug traffick-
20 ing crime (as defined in section 929(a) of this title),
21 is 15 years; and

22 “(B) if committed to facilitate an act of inter-
23 national terrorism (as defined in section 2331 of this
24 title), is 20 years.”.

1 (2) Sections 1542 through 1543 of title 18, United
2 States Code, are amended by striking “Shall be fined
3 under this title, imprisoned not more than 10 years, or
4 both.” each place it appears and inserting “Shall be pun-
5 ishable by—

6 “(1) a fine under this title or imprisonment for
7 not more than 10 years, or both, for a first offense,
8 if the offender is under 21 years of age at the time
9 of the offense,

10 “(2) a fine under this title or imprisonment for
11 not less than two and one-half years or more than
12 10 years, or both, for a first offense, if the offender
13 is 21 years of age or older at the time of the offense,

14 “(3) a fine under this title or imprisonment for
15 not less than 5 years or more than 10 years, or
16 both, for a second offense, or

17 “(4) a fine under this title or imprisonment for
18 not less than 10 years or more than 15 years, or
19 both, for a third or subsequent offense.

20 Notwithstanding any other provision of this section, the
21 maximum term of imprisonment that may be imposed for
22 an offense under this section—

23 “(A) if committed to facilitate a drug traffick-
24 ing crime (as defined in section 929(a) of this title),
25 is 15 years; and

1 “(B) if committed to facilitate an act of inter-
2 national terrorism (as defined in section 2331 of this
3 title), is 20 years.”.

4 (3) Section 1546(a) of title 18, United States Code,
5 is amended by striking “Shall be fined under this title,
6 imprisoned not more than 10 years, or both.” each place
7 it appears and inserting “Shall be punishable by—

8 “(1) a fine under this title or imprisonment for
9 not more than 10 years, or both, for a first offense,
10 if the offender is under 21 years of age at the time
11 of the offense,

12 “(2) a fine under this title or imprisonment for
13 not less than two and one-half years or more than
14 10 years, or both, for a first offense, if the offender
15 is 21 years of age or older at the time of the offense,

16 “(3) a fine under this title or imprisonment for
17 not less than 5 years or more than 10 years, or
18 both, for a second offense, or

19 “(4) a fine under this title or imprisonment for
20 not less than 10 years or more than 15 years, or
21 both, for a third or subsequent offense.

22 Notwithstanding any other provision of this subsection,
23 the maximum term of imprisonment that may be imposed
24 for an offense under this subsection—

1 “(A) if committed to facilitate a drug traffick-
2 ing crime (as defined in section 929(a) of this title),
3 is 15 years; and

4 “(B) if committed to facilitate an act of inter-
5 national terrorism (as defined in section 2331 of this
6 title), is 20 years.”.

7 (4) Sections 1425 through 1427 of title 18, United
8 States Code, are amended by striking “be fined not more
9 than \$5,000 or imprisoned not more than five years, or
10 both” each place it appears and inserting “be—

11 “(1) fined under this title or imprisoned for not
12 less than two and one-half years or more than 10
13 years, or both, for a first offense,

14 “(2) fined under this title or imprisoned for not
15 less than 5 years or more than 10 years, or both,
16 for a second offense, or

17 “(3) fined under this title or imprisoned for not
18 less than 10 years or more than 15 years, or both,
19 for a third or subsequent offense.

20 Notwithstanding any other provision of this section, the
21 maximum term of imprisonment that may be imposed for
22 an offense under this section—

23 “(A) if committed to facilitate a drug traffick-
24 ing crime (as defined in section 929(a) of this title),
25 is 15 years; and

1 “(B) if committed to facilitate an act of inter-
2 national terrorism (as defined in section 2331 of this
3 title), is 20 years.”.

4 (b) CHANGES TO THE SENTENCING LEVELS.—Pur-
5 suant to section 944 of title 28, United States Code, and
6 section 21 of the Sentencing Act of 1987, the United
7 States Sentencing Commission shall promulgate guide-
8 lines, or amend existing guidelines, relating to defendants
9 convicted of violating, or conspiring to violate, sections
10 1028(b)(1), 1425 through 1427, 1542 through 1543, and
11 1546(a) of title 18, United States Code. The base offense
12 level under the appropriate sections of the United States
13 Sentencing Guidelines shall be increased to—

14 (1) in the case of a first offense under sections
15 1425 through 1427, or a first offense if the offender
16 was at least 21 years old at the time of the offense,
17 not lower than 22;

18 (2) in the case of an offender with one prior fel-
19 ony conviction, not lower than 26;

20 (3) in the case of an offender with two or more
21 prior felony convictions, not lower than 32;

22 (4) in the case of an offender who knew the
23 documents were to be used to facilitate any other
24 criminal activity described in section
25 212(a)(2)(A)(i)(II) of the Immigration and Nation-

1 ality Act (8 U.S.C. 1182(a)(2)(A)(i)(II)) or in sec-
2 tion 101(a)(43) of such Act (8 U.S.C. 1101(a)(43)),
3 as amended by this Act, not lower than 34;

4 (5) in the case of an offender who knew—

5 (A) the documents were being provided to,
6 or would be provided to, a person the offender
7 knew or had reason to know had engaged or
8 would engage in a terrorist activity (as such
9 terms are defined in section 212(a)(3)(B) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1182(a)(3)(B));

12 (B) the documents were being provided to,
13 or would be provided to, facilitate a terrorist ac-
14 tivity or assist a person to engage in terrorist
15 activity (as such terms are defined in section
16 212(a)(3)(B) of the Immigration and National-
17 ity Act (8 U.S.C. 1182(a)(3)(B)); or

18 (C) the documents were being provided to,
19 or would be provided to, persons involved in
20 racketeering enterprises (as such acts or activi-
21 ties are defined in section 1952 of title 18,
22 United States Code);

23 not lower than 37; and

24 (6) in the case of procurement, production,
25 transfer, or possession of more than 5 documents or

1 related implements within the scope of this section,
 2 a required enhancement of between 1 and 5 offense
 3 levels, in proportion to the quantity of documents at
 4 issue.

5 (c) EFFECTIVE DATE.—This section and the amend-
 6 ments made by this section shall apply with respect to of-
 7 fenses occurring on or after the date of enactment of this
 8 Act.

9 **SEC. 309. CRIMINAL PENALTY FOR FALSE STATEMENT IN A**
 10 **DOCUMENT REQUIRED UNDER THE IMMIGRA-**
 11 **TION LAWS OR KNOWINGLY PRESENTING**
 12 **DOCUMENT WHICH FAILS TO CONTAIN REA-**
 13 **SONABLE BASIS IN LAW OR FACT.**

14 The fourth undesignated paragraph of section
 15 1546(a) of title 18, United States Code, is amended to
 16 read as follows:

17 “Whoever knowingly makes under oath, or as per-
 18 mitted under penalty of perjury under section 1746 of title
 19 28, United States Code, knowingly subscribes as true, any
 20 false statement with respect to a material fact in any ap-
 21 plication, affidavit, or other document required by the im-
 22 migration laws or regulations prescribed thereunder, or
 23 knowingly presents any such application, affidavit, or
 24 other document which contains any such false statement

1 or which fails to contain any reasonable basis in law or
2 fact—”.

3 **SEC. 310. NEW CRIMINAL PENALTIES FOR FAILURE TO DIS-**
4 **CLOSE ROLE AS PREPARER OF FALSE APPLI-**
5 **CATION FOR ASYLUM OR FOR PREPARING**
6 **CERTAIN POST-CONVICTION APPLICATIONS.**

7 Section 274C (8 U.S.C. 1324c) is amended by adding
8 at the end the following new subsection:

9 “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-
10 CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in
11 any matter within the jurisdiction of the Service under
12 section 208 of this Act, knowingly and willfully fails to
13 disclose, conceals, or covers up the fact that they have,
14 on behalf of any person and for a fee or other remunera-
15 tion, prepared or assisted in preparing an application
16 which was falsely made (as defined in section 274C(a))
17 for immigration benefits pursuant to section 208 of this
18 Act, or the regulations promulgated thereunder, shall be
19 guilty of a felony and shall be fined in accordance with
20 title 18, United States Code, imprisoned for not less than
21 2 years nor more than 5 years, or both, and prohibited
22 from preparing or assisting in preparing, regardless of
23 whether for a fee or other remuneration, any other such
24 application.

1 “(2) Whoever, having been convicted of a violation
 2 of section 274C(e), knowingly and willfully prepares or as-
 3 sists in preparing an application for immigration benefits
 4 pursuant to this Act, or the regulations promulgated
 5 thereunder, regardless of whether for a fee or other remuneration and regardless of whether in any matter within
 6 the jurisdiction of the Service under section 208, shall be
 7 guilty of a felony and shall be fined in accordance with
 8 title 18, United States Code, imprisoned for not less than
 9 5 years or more than 15 years, or both, and prohibited
 10 from preparing or assisting in preparing any other such
 11 application.”.

13 **SEC. 311. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.**

14 (a) ACTIVITIES PROHIBITED.—Section 274C(a) (8
 15 U.S.C. 1324c(a)) is amended—

16 (1) in paragraph (1), by inserting before the
 17 comma at the end the following: “or to obtain a benefit under this Act”;

19 (2) in paragraph (2), by inserting before the
 20 comma at the end the following: “or to obtain a benefit under this Act”;

22 (3) in paragraph (3)—

23 (A) by inserting “or with respect to” after
 24 “issued to”;

1 (B) by adding before the comma at the end
2 the following: “or obtaining a benefit under this
3 Act”; and

4 (C) by striking “or” at the end;
5 (4) in paragraph (4)—

6 (A) by inserting “or with respect to” after
7 “issued to”;

8 (B) by adding before the period at the end
9 the following: “or obtaining a benefit under this
10 Act”; and

11 (C) by striking the period at the end and
12 inserting “, or”; and

13 (5) by adding at the end the following new
14 paragraphs:

15 “(5) to prepare, file, or assist another in pre-
16 paring or filing, any application for benefits under
17 this Act, or any document required under this Act,
18 or any document submitted in connection with such
19 application or document, with knowledge or in reck-
20 less disregard of the fact that such application or
21 document was falsely made or, in whole or in part,
22 does not relate to the person on whose behalf it was
23 or is being submitted, or

24 “(6) to (A) present before boarding a common
25 carrier for the purpose of coming to the United

1 States a document which relates to the alien's eligi-
 2 bility to enter the United States, and (B) fail to
 3 present such document to an immigration officer
 4 upon arrival at a United States port of entry.

5 The phrase 'falsely make', as used in this section in con-
 6 nection with an application or document, means prepare
 7 or provide with knowledge or in reckless disregard of the
 8 fact that the application or document contains a false, fie-
 9 titious, or fraudulent statement or material representa-
 10 tion, or has no basis in law or fact, or otherwise fails to
 11 state a fact which is material to the purpose for which
 12 it was submitted.”.

13 (b) CONFORMING AMENDMENTS.—Section
 14 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking
 15 “each document used, accepted, or created and each in-
 16 stance of use, acceptance, or creation” each of the two
 17 places it appears and inserting “each document that is the
 18 subject of a violation under subsection (a)”.

19 (c) ENHANCED CIVIL PENALTIES FOR DOCUMENT
 20 FRAUD IF LABOR STANDARDS VIOLATIONS ARE
 21 PRESENT.—Section 274C(d) (8 U.S.C. 1324c(d)) is
 22 amended by adding at the end the following new para-
 23 graph:

24 “(7) CIVIL PENALTY.—(A) The administrative
 25 law judge shall have the authority to require pay-

1 ment of a civil money penalty in an amount up to
2 two times the level of the penalty prescribed by this
3 subsection in any case where the employer has been
4 found to have committed willful or repeated viola-
5 tions of any of the following statutes:

6 “(i) The Fair Labor Standards Act (29
7 U.S.C. 201 et seq.) pursuant to a final deter-
8 mination by the Secretary of Labor or a court
9 of competent jurisdiction.

10 “(ii) The Migrant and Seasonal Agricul-
11 tural Worker Protection Act (29 U.S.C. 1801 et
12 seq.) pursuant to a final determination by the
13 Secretary of Labor or a court of competent ju-
14 risdiction.

15 “(iii) The Family and Medical Leave Act
16 (29 U.S.C. 2601 et seq.) pursuant to a final de-
17 termination by the Secretary of Labor or a
18 court of competent jurisdiction.

19 “(B) The Secretary of Labor and the Attorney
20 General shall consult regarding the administration of
21 this paragraph.”.

22 (d) WAIVER BY ATTORNEY GENERAL.—Section
23 274C(d) (8 U.S.C. 1324c(d)), as amended by subsection
24 (c), is further amended by adding the following new para-
25 graph:

1 “(8) WAIVER BY ATTORNEY GENERAL.—The
 2 Attorney General may, in his or her discretion, waive
 3 the penalties of this section with respect to an alien
 4 who knowingly violates paragraph (6) if the alien is
 5 granted asylum under section 208 or withholding of
 6 deportation under section 243(h).”.

7 (e) EFFECTIVE DATE.—(1) The new sentence added
 8 at the end of section 274C(a) of the Immigration and Na-
 9 tionality Act by subsection (a)(5) applies to the prepara-
 10 tion of applications before, on, or after the date of enact-
 11 ment of this Act.

12 (2) The amendments made by subsection (c) shall
 13 apply with respect to offenses occurring on or after the
 14 date of enactment of this Act.

15 **SEC. 312. CHANGES IN LIST OF ACCEPTABLE EMPLOY-**
 16 **MENT-VERIFICATION DOCUMENTS.**

17 (a) AUTHORITY TO REQUIRE SOCIAL SECURITY AC-
 18 COUNT NUMBERS.—Section 274A (8 U.S.C. 1324a) is
 19 amended by adding at the end of subsection (b)(2) the
 20 following new sentence: “The Attorney General is author-
 21 ized to require an individual to provide on the form de-
 22 scribed in paragraph (1)(A) that individual’s Social Secu-
 23 rity account number for purposes of complying with this
 24 section.”.

1 (b) CHANGES IN ACCEPTABLE DOCUMENTATION FOR
 2 EMPLOYMENT AUTHORIZATION AND IDENTITY.—

3 (1) REDUCTION IN NUMBER OF ACCEPTABLE
 4 EMPLOYMENT-VERIFICATION DOCUMENTS.—Section
 5 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

6 (A) in subparagraph (B)—

7 (i) by striking clauses (ii), (iii), and
 8 (iv);

9 (ii) by redesignating clause (v) as
 10 clause (ii);

11 (iii) in clause (i), by adding at the end
 12 “or”; and

13 (iv) in clause (ii) (as redesignated), by
 14 amending the text above subclause (I) to
 15 read as follows:

16 “(ii) resident alien card, alien reg-
 17 istration card, or other document des-
 18 igned by regulation by the Attorney Gen-
 19 eral, if the document—”; and

20 (v) in clause (ii) (as redesignated), by
 21 striking the period after subclause (II) and
 22 by adding at the end the following new
 23 subclause:

24 “(III) and contains appropriate
 25 security features.”; and

1 (B) in subparagraph (C)—

2 (i) by inserting “or” after the “semi-
3 colon” at the end of clause (i);

4 (ii) by striking clause (ii); and

5 (iii) by redesignating clause (iii) as
6 clause (ii).

7 (2) AUTHORITY TO PROHIBIT USE OF CERTAIN
8 DOCUMENTS.—If the Attorney General finds, by reg-
9 ulation, that any document described in section
10 274A(b)(1) of the Immigration and Nationality Act
11 (8 U.S.C. 1324a(b)(1)) as establishing employment
12 authorization or identity does not reliably establish
13 the same or is being used fraudulently to an unac-
14 ceptable degree, the Attorney General may prohibit
15 or place conditions on its use for purposes of the
16 verification system established in section 274A(b) of
17 the Immigration and Nationality Act or in this sec-
18 tion.

19 (c) EFFECTIVE DATE.—The amendments made by
20 subsections (a) and (b)(1) shall apply with respect to hir-
21 ing (or recruiting or referring) occurring on or after such
22 date as the Attorney General shall designate (but not later
23 than 180 days after the date of the enactment of this Act).

1 **TITLE IV—CRIMINAL ALIENS**

2 **SEC. 401. AMENDED DEFINITION OF AGGRAVATED FELONY.**

3 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
4 1101(a)(43)), as amended by section 222 of the Immigra-
5 tion and Nationality Technical Corrections Act of 1994
6 (Public Law 103–416), is further amended—

7 (1) in subparagraph (D), by striking
8 “\$100,000” and inserting “\$10,000”;

9 (2) in subparagraphs (F), (G), and (O), by
10 striking “for which the term” and all that follows
11 within each such subparagraph and inserting “for
12 which the term of imprisonment imposed (regardless
13 of any suspension of imprisonment) is at least 1
14 year”;

15 (3) in subparagraph (J)—

16 (A) by striking “for which a sentence of 5
17 years’ imprisonment or more may be imposed”
18 and inserting “for which either the term of im-
19 prisonment imposed (regardless of any suspen-
20 sion of imprisonment) is at least 1 year or
21 which is punishable by imprisonment of at least
22 2½ years”; and

23 (B) by striking “offense described” and in-
24 serting “offense described in section 1084 of
25 title 18 (if it is a second or subsequent offense),

1 section 1955 of such title (relating to gambling
2 offenses), or”;

3 (4) in subparagraph (K)—

4 (A) by striking “or” after the semicolon in
5 subparagraph (i);

6 (B) by inserting “or” after the semicolon
7 in subparagraph (ii); and

8 (C) by adding at the end the following new
9 clause:

10 “(iii) is described in section 2421,
11 2422, or 2423 of title 18, United States
12 Code (relating to transportation for the
13 purpose of prostitution), if committed for
14 commercial advantage.”;

15 (5) in subparagraph (L)—

16 (A) by striking “or” at the end of clause
17 (i);

18 (B) by inserting “or” at the end of clause
19 (ii); and

20 (C) by adding at the end the following new
21 clause:

22 “(iii) section 601 of the National Se-
23 curity Act of 1947, title 50, United States
24 Code (relating to protecting the identity of
25 undercover agents)”;

1 (6) in subparagraph (M), by striking
2 “\$200,000” and inserting “\$10,000”;

3 (7) in subparagraph (N), by striking “for the
4 purpose of commercial advantage” and inserting the
5 following: “, except, for a first offense, if the alien
6 has affirmatively shown that he or she committed
7 the offense for the purpose of assisting, abetting, or
8 aiding only the alien’s spouse, child, or parent (and
9 no other individual) to violate a provision of this
10 Act”;

11 (8) by redesignating subparagraphs (P) and
12 (Q) as subparagraphs (R) and (S), respectively;

13 (9) by inserting after subparagraph (O) the fol-
14 lowing new subparagraphs:

15 “(P) any offense relating to commercial
16 bribery, counterfeiting, forgery, or trafficking in
17 vehicles whose identification numbers have been
18 altered, for which either the term of imprison-
19 ment imposed (regardless of any suspension of
20 imprisonment) is at least 1 year or which is
21 punishable by imprisonment of at least 2½
22 years;

23 “(Q) any offense relating to perjury or
24 subornation of perjury which is punishable by
25 imprisonment for which either the term of im-

1 prisonment imposed (regardless of any suspen-
 2 sion of imprisonment) is at least 1 year or
 3 which is punishable by imprisonment of at least
 4 2½ years;” and

5 (10) in redesignated subparagraph (R), by
 6 striking “15” and inserting “5”.

7 (b) EFFECTIVE DATE OF DEFINITION.—Section
 8 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding
 9 at the end the following new sentence: “Notwithstanding
 10 any other provision of law, the definition in this paragraph
 11 applies for all purposes to any described offense, regard-
 12 less of whether the conviction was entered before, on, or
 13 after the date of enactment of this paragraph or any part
 14 thereof.”.

15 **SEC. 402. JUDICIAL REVIEW OF ORDERS OF EXCLUSION OR**
 16 **DEPORTATION ENTERED AGAINST CRIMINAL**
 17 **ALIENS.**

18 Section 106(a) (8 U.S.C. 1105a(a)) is amended by
 19 striking paragraph (10) and inserting the following new
 20 paragraph:

21 “(10) notwithstanding any other provision of
 22 law, there shall be no judicial review of any final
 23 order of exclusion or deportation entered against any
 24 alien convicted of any criminal offense covered in
 25 section 241(a)(2) (A)(iii) or (B), (C), and (D), or

1 any offense covered by clause (ii) of section
 2 241(a)(2)(A) for which both predicate offenses are
 3 covered by clause (i) of that section.”.

4 **SEC. 403. LIMITATIONS ON RELIEF FROM EXCLUSION AND**
 5 **DEPORTATION.**

6 (a) LIMITATION.—Section 212(c) (8 U.S.C. 1182(c))
 7 is amended by striking the last sentence and inserting the
 8 following: “This subsection shall not apply to an alien who
 9 is deportable by reason of having committed any criminal
 10 offense covered in section 241(a)(2) (A)(iii) or (B), (C),
 11 and (D), or any offense covered by clause (ii) of section
 12 241(a)(2)(A) for which both predicate offenses are covered
 13 by clause (i) of that section.”.

14 **SEC. 404. INELIGIBILITY OF CERTAIN CRIMINAL ALIENS**
 15 **FOR ADJUSTMENT OF STATUS.**

16 Section 244(a) (8 U.S.C. 1254(a)) is amended—

17 (1) by striking the parenthetical in the first
 18 sentence and inserting “(other than an alien who is
 19 deportable by reason of having committed any crimi-
 20 nal offense covered in Section 241(a)(2)(A)(iii) or
 21 (B) (C) and (D), or any offense covered in clause
 22 (ii) of Section 241(a)(2)(A) for which both predicate
 23 offenses are covered by clause (i) of that section, or
 24 who is an alien described in paragraph (4)(D) of
 25 section 241(a))”; and

1 (2) in subparagraph (2) by striking “is deport-
 2 able under” and all that follows through “not less
 3 than ten years” and inserting “is deportable under
 4 paragraphs (1) (E) or (F), (3) (B) or (C), or (4) (A)
 5 (B) or (C) of section 241(a) of this title, has been
 6 physically present in the United States, excluding
 7 any period during which the alien was imprisoned or
 8 otherwise under the supervision of the criminal jus-
 9 tice system, for a continuous period of not less than
 10 10 years”.

11 **SEC. 405. EXPEDITIOUS DEPORTATION CREATES NO EN-**
 12 **FORCEABLE RIGHT FOR AGGRAVATED FEL-**
 13 **ONS.**

14 Section 225 of the Immigration and Nationality
 15 Technical Corrections Act of 1994 (Public Law 103–416)
 16 is amended by striking “section 242(i) of the Immigration
 17 and Nationality Act (8 U.S.C. 1252(i))” and inserting
 18 “sections 242(i) or 242A of the Immigration and National-
 19 ity Act (8 U.S.C. 1252(i) or 1252a)”.

20 **SEC. 406. CUSTODY OF ALIENS CONVICTED OF FELONIES.**

21 (a) Section 236(e) (8 U.S.C. 1226(e)) is amended—
 22 (1) in paragraph (1), by striking “convicted of
 23 an aggravated felony” and inserting “who is deport-

1 able by reason of having committed any criminal of-
2 fense covered in Section 241(a)(2) (A)(iii) or (B)
3 (C) and (D), or any offense covered in clause (ii) of
4 Section 241(a)(2)(A) for which both predicate of-
5 fenses are covered by clause (i) of that section”; and

6 (2) by amending paragraph (2) to read as fol-
7 lows:

8 “(2)(A) When a final order of deportation
9 under administrative processes is made against any
10 alien who is deportable by reason of having commit-
11 ted any criminal offense covered in section 241(a)(2)
12 (A)(iii) or (B), (C), and (D), or any offense covered
13 by clause (ii) of section 241(a)(2)(A) for which both
14 predicate offenses are covered by clause (i) of that
15 section, the Attorney General shall have a period of
16 30 days from the later of—

17 “(i) the date of such order, or

18 “(ii) the alien’s release from incarceration,
19 within which to effect the alien’s departure
20 from the United States.

21 “(B) The Attorney General shall have sole and
22 unreviewable discretion to waive subparagraph (A)
23 for aliens who are cooperating with law enforcement
24 authorities or for purposes of national security.”.

1 (b) Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is
2 amended to read as follows:

3 “(2)(A) The Attorney General shall take into custody
4 any alien convicted of any criminal offense covered in sec-
5 tion 241(a)(2) (A)(iii) or (B), (C), and (D), or any offense
6 covered by clause (ii) of section 241(a)(2)(A) for which
7 both predicate offenses are covered by clause (i) of that
8 section, upon release of the alien from incarceration and
9 shall deport the alien as expeditiously as possible. Not-
10 withstanding paragraph (1) or subsections (c) and (d) of
11 this section the Attorney General shall not release such
12 felon from custody.

13 “(B) The Attorney General shall have sole and
14 unreviewable discretion to waive subparagraph (A) for
15 aliens who are cooperating with law enforcement authori-
16 ties or for purposes of national security.”.

17 (c) Section 242(c) is amended—

18 (1) in the first sentence—

19 (A) by striking “(c)” and inserting
20 “(c)(1)”; and

21 (B) by inserting “(other than an alien de-
22 scribed in paragraph (2))”; and

23 (2) by adding at the end the following:

24 “(2)(A) When a final order of deportation under ad-
25 ministrative processes is made against any alien who is

1 deportable by reason of having committed any criminal of-
2 fense covered in section 241(a)(2) (A)(iii) or (B), (C), and
3 (D), or any offense covered by clause (ii) of section
4 241(a)(2)(A) for which both predicate offenses are covered
5 by clause (i) of that section, the Attorney General shall
6 have a period of 30 days from the later of—

7 “(i) the date of such order, or

8 “(ii) the alien’s release from incarceration,
9 within which to effect the alien’s departure from the
10 United States.

11 “(B) The Attorney General shall have sole and
12 unreviewable discretion to waive subparagraph (A) for
13 aliens who are cooperating with law enforcement authori-
14 ties or for purposes of national security.”.

15 (d) Section 242(f) of the Immigration and National-
16 ity Act (8 U.S.C. 1252(f)) is amended by adding at the
17 end the following new sentence: “Any alien who has unlaw-
18 fully reentered the United States after having previously
19 been deported by reason of having committed any criminal
20 offense covered in section 241(a)(2) (A)(iii) or (B), (C),
21 and (D), or any offense covered by clause (ii) of section
22 241(a)(2)(A) for which both predicate offenses are covered
23 by clause (i) of that section, shall, in addition to the pun-
24 ishment provided for any other crime, be punished by im-
25 prisonment of not less than 15 years.”.

1 **SEC. 407. JUDICIAL DEPORTATION.**

2 (a) Section 242A (8 U.S.C. 1252a(a)(1) is
3 amended—

4 (1) by amending paragraphs (1) and (2) of sub-
5 section (a) to read as follows:

6 “(a) DEPORTATION OF CRIMINAL ALIENS.—

7 “(1) IN GENERAL.—The Attorney General shall
8 provide for the availability of special deportation
9 proceedings at certain Federal, State, and local cor-
10 rectional facilities for aliens convicted of any crimi-
11 nal offense covered in section 241(a)(2) (A)(iii) or
12 (B), (C), and (D), or any offense covered by clause
13 (ii) of section 241(a)(2)(A) for which both predicate
14 offenses are covered by clause (i) of that section.
15 Such proceedings shall be conducted in conformity
16 with section 242 (except as otherwise provided in
17 this section), and in a manner which eliminates the
18 need for additional detention at any processing cen-
19 ter of the Service and in a manner which assures ex-
20 peditious deportation following the end of the alien’s
21 incarceration for the underlying sentence.

22 “(2) IMPLEMENTATION.—With respect to an
23 alien convicted of any criminal offense covered in
24 section 241(a)(2) (A)(iii) or (B), (C), and (D), or
25 any offense covered by clause (ii) of section
26 241(a)(2)(A) for which both predicate offenses are

1 covered by clause (i) of that section who is taken
2 into custody by the Attorney General pursuant to
3 section 242(a)(2), the Attorney General shall, to the
4 maximum extent practicable, detain any such felon
5 at a facility at which other such aliens are detained.
6 In the selection of such facility, the Attorney Gen-
7 eral shall make reasonable efforts to ensure that the
8 alien's access to counsel and right to counsel under
9 section 1362 are not impaired.”;

10 (2) by redesignating subsection (d) as sub-
11 section (c); and

12 (3) in subsection (c), as redesignated—

13 (A) by striking paragraph (1) and insert-
14 ing the following:

15 “(1) AUTHORITY.—Notwithstanding any other
16 provision of this Act, a United States district court
17 shall have jurisdiction to enter a judicial order of de-
18 portation at the time of sentencing against an
19 alien—

20 “(A) who is deportable pursuant to para-
21 graphs (1) through (5) of section 241(a);

22 “(B) who has at any time been convicted
23 of a violation of section 276 (a) or (b) (relating
24 to reentry of a deported alien); or

1 “(C) who has at any time been convicted
2 of a violation of section 275 (relating to entry
3 of an alien at an improper time or place, and
4 to misrepresentation and concealment of facts).

5 A United States Magistrate shall have jurisdiction to
6 enter a judicial order of deportation at the time of
7 sentencing where the alien has been convicted of a
8 misdemeanor offense and the alien is deportable
9 under this Act.”; and

10 (B) by adding at the end the following new
11 paragraph:

12 “(5) STIPULATED JUDICIAL ORDER OF DEPOR-
13 TATION.—The United States Attorney, with the con-
14 currence of the Commissioner, may, pursuant to
15 Federal Rule of Criminal Procedure 11, enter into
16 a plea agreement which calls for the alien, who is de-
17 portable under this Act, to waive the right to notice
18 and a hearing under this section, and stipulate to
19 the entry of a judicial order of deportation from the
20 United States as a condition of the plea agreement
21 or as a condition of probation or supervised release,
22 or both. The United States District Court, in both
23 felony and misdemeanor cases, and the United
24 States Magistrate Court in misdemeanors cases, may
25 accept such a stipulation and shall have jurisdiction

1 to enter a judicial order of deportation pursuant to
2 the terms of such stipulation.”.

3 **SEC. 408. STIPULATED EXCLUSION OR DEPORTATION.**

4 (a) Section 236 (8 U.S.C. 1226) is amended by add-
5 ing at the end the following new subsection:

6 “(f) The Attorney General shall provide by regulation
7 for the entry by a special inquiry officer of an order of
8 exclusion and deportation stipulated to by the alien and
9 the Service. Such an order may be entered without a per-
10 sonal appearance by the alien before the special inquiry
11 officer. A stipulated order shall constitute a conclusive de-
12 termination of the alien’s excludability and deportability
13 from the United States.”.

14 (b) Section 242 (8 U.S.C. 1252) is amended in sub-
15 section (b)—

16 (1) by inserting “(1)” before the first sentence;
17 and

18 (2) by striking the sentence beginning with
19 “Except as provided in section 242A(d)” and insert-
20 ing the following:

21 “(2) The Attorney General shall further provide
22 by regulation for the entry by a special inquiry offi-
23 cer of an order of deportation stipulated to by the
24 alien and the Service. Such an order may be entered
25 without a personal appearance by the alien before

1 the special inquiry officer. A stipulated order shall
 2 constitute a conclusive determination of the alien’s
 3 deportability from the United States.

4 “(3) The procedures prescribed in this sub-
 5 section and in section 242A(c) shall be the sole and
 6 exclusive procedures for determining the deportabil-
 7 ity of an alien under this section.

8 “(4)”.

9 **SEC. 409. DEPORTATION AS A CONDITION OF PROBATION.**

10 Section 3563(b) of title 18, United States Code, is
 11 amended—

12 (1) by striking “or” at the end of paragraph
 13 (21);

14 (2) by striking the period at the end of para-
 15 graph (22) and inserting “; or”; and

16 (3) by adding at the end the following new
 17 paragraph:

18 “(23) be ordered deported by a United States
 19 District Court, or United States Magistrate Court,
 20 pursuant to a stipulation entered into by the defend-
 21 ant and the United States under section 242A(c) of
 22 the Immigration and Nationality Act (8 U.S.C.
 23 1252a(c)), except that, in the absence of a stipula-
 24 tion, the United States District Court or the United
 25 States Magistrate Court, may order deportation as

1 a condition of probation, if, after notice and hearing
2 pursuant to section 242A(c) of the Immigration and
3 Nationality Act, the Attorney General demonstrates
4 by clear and convincing evidence that the alien is de-
5 portable.”.

6 **SEC. 410. ANNUAL REPORT ON CRIMINAL ALIENS.**

7 Not later than 12 months after the date of enactment
8 of this Act, and annually thereafter, the Attorney General
9 shall submit to the Committees on the Judiciary of the
10 House of Representatives and of the Senate a report de-
11 tailing—

12 (1) the number of illegal aliens incarcerated in
13 Federal and State prisons for having committed felo-
14 nies, stating the number incarcerated for each type
15 of offense;

16 (2) the number of illegal aliens convicted for
17 felonies in any Federal or State court, but not sen-
18 tenced to incarceration, in the year before the report
19 was submitted, stating the number convicted for
20 each type of offense;

21 (3) programs and plans underway in the De-
22 partment of Justice to ensure the prompt removal
23 from the United States of criminal aliens subject to
24 exclusion or deportation; and

1 (4) methods for identifying and preventing the
2 unlawful reentry of aliens who have been convicted
3 of criminal offenses in the United States and re-
4 moved from the United States.

5 **SEC. 411. UNDERCOVER INVESTIGATION AUTHORITY.**

6 (a) **AUTHORITIES.**—With respect to any undercover
7 investigative operation of the Immigration and Naturaliza-
8 tion Service which is necessary for the detection and pros-
9 ecution of crimes against the United States—

10 (1) sums authorized to be appropriated for the
11 Immigration and Naturalization Service by this Act
12 may be used for leasing space within the United
13 States, the District of Columbia, and the territories
14 and possessions of the United States without regard
15 to section 3679(a) of the Revised Statutes (31
16 U.S.C. 1341), section 3732(a) of the Revised Stat-
17 utes (41 U.S.C. 11(a)), section 305 of the Act of
18 June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the
19 third undesignated paragraph under the heading
20 “Miscellaneous” of the Act of March 3, 1877 (19
21 Stat. 370; 40 U.S.C. 34), section 3648 of the Re-
22 vised Statutes (31 U.S.C. 3324), section 3741 of the
23 Revised Statutes (41 U.S.C. 22), and subsections (a)
24 and (c) of section 304 of the Federal Property and

1 Administrative Services Act of 1949 (63 Stat. 395;
2 41 U.S.C. 254 (a) and (c));

3 (2) sums authorized to be appropriated for the
4 Immigration and Naturalization Service by this Act
5 may be used to establish or to acquire proprietary
6 corporations or business entities as part of an un-
7 dercover operation, and to operate such corporations
8 or business entities on a commercial basis, without
9 regard to the provisions of section 304 of the Gov-
10 ernment Corporation Control Act (31 U.S.C. 9102);

11 (3) sums authorized to be appropriated for the
12 Immigration and Naturalization Service by this Act,
13 and the proceeds from such undercover operation,
14 may be deposited in banks or other financial institu-
15 tions without regard to the provisions of section 648
16 of title 18 of the United States Code, and section
17 3639 of the Revised Statutes (31 U.S.C. 3302); and

18 (4) the proceeds from such undercover oper-
19 ation may be used to offset necessary and reasonable
20 expenses incurred in such operation without regard
21 to the provisions of section 3617 of the Revised
22 Statutes (31 U.S.C. 3302).

23 The authorization set forth in this section may be exer-
24 cised only upon written certification of the Commissioner
25 of the Immigration and Naturalization Service, in con-

1 sultation with the Deputy Attorney General, that any ac-
2 tion authorized by paragraph (1), (2), (3), or (4) is nec-
3 essary for the conduct of such undercover operation.

4 (b) UNUSED FUNDS.—As soon as practicable after
5 the proceeds from an undercover investigative operation,
6 carried out under paragraphs (3) and (4) of subsection
7 (a), are no longer necessary for the conduct of such oper-
8 ation, such proceeds or the balance of such proceeds re-
9 maining at the time shall be deposited into the Treasury
10 of the United States as miscellaneous receipts.

11 (c) REPORT.—If a corporation or business entity es-
12 tablished or acquired as part of an undercover operation
13 under subsection (a)(2) with a net value of over \$50,000
14 is to be liquidated, sold, or otherwise disposed of, the Im-
15 migration and Naturalization Service, as much in advance
16 as the Commissioner or his or her designee determine
17 practicable, shall report the circumstances to the Attorney
18 General, the Director of the Office of Management and
19 Budget, and the Comptroller General of the United States.
20 The proceeds of the liquidation, sale, or other disposition,
21 after obligations are met, shall be deposited in the Treas-
22 ury of the United States as miscellaneous receipts.

23 (d) AUDITS.—The Immigration and Naturalization
24 Service shall conduct detailed financial audits of closed un-
25 dercover operations on a quarterly basis and shall report

1 the results of the audits in writing to the Deputy Attorney
2 General.

3 **SEC. 412. PRISONER TRANSFER TREATIES.**

4 (a) NEGOTIATIONS WITH OTHER COUNTRIES.—The
5 Secretary of State, together with the Attorney General,
6 may enter into an agreement with any foreign country pro-
7 viding for the incarceration in that country of any individ-
8 ual who—

9 (1) is a national of that country; and

10 (2) has been convicted of a criminal offense
11 under Federal or State law and who—

12 (A) is not in lawful immigration status in
13 the United States, or

14 (B) on the basis of conviction for a crimi-
15 nal offense under Federal or State law, or on
16 any other basis, is subject to deportation under
17 the Immigration and Nationality Act,

18 for the duration of the prison term to which the individual
19 was sentenced for the offense referred to in paragraph (2).

20 Any such agreement may provide for the release of such
21 individual pursuant to parole procedures of that country.

22 (b) SENSE OF CONGRESS.—It is the sense of the
23 Congress that—

24 (1) the focus of negotiations for such agree-
25 ments should be on arrangements to expedite the

1 transfer of the individuals described in subsection
2 (a) and to ensure that such individuals serve the bal-
3 ance of their sentences;

4 (2) the Secretary of State should give priority
5 to concluding an agreement with any country for
6 which the President determines that the number of
7 individuals described in subsection (a) who are na-
8 tionals of that country in the United States rep-
9 resents a significant percentage of all such individ-
10 uals in the United States; and

11 (3) no new treaty providing for the transfer of
12 aliens from Federal, State, or local incarceration fa-
13 cilities to a foreign incarceration facility may permit
14 the alien to refuse the transfer.

15 (c) PRISONER CONSENT.—Notwithstanding any
16 other provision of law, except as required by treaty, the
17 transfer of an alien from a Federal, State, or local incar-
18 ceration facility under an agreement of the type referred
19 to in subsection (a) shall not require consent of the alien.

20 (d) ANNUAL REPORT.—Not later than 90 days after
21 the date of the enactment of this Act, and annually there-
22 after, the Attorney General shall submit a report to the
23 Committees on the Judiciary of the House of Representa-
24 tives and of the Senate, stating whether each prisoner
25 transfer treaty to which the United States is a party has

1 been effective in the preceding 12 months in bringing
2 about the return of deportable incarcerated aliens to the
3 country of which they are nationals and in ensuring that
4 they serve the balance of their sentences.

5 (e) TRAINING FOREIGN LAW ENFORCEMENT PER-
6 SONNEL.—(1) Subject to paragraph (2), the President
7 shall direct the Border Patrol Academy and the Customs
8 Service Academy to enroll for training an appropriate
9 number of foreign law enforcement personnel, and shall
10 make appointments of foreign law enforcement personnel
11 to such academies, as necessary to further the following
12 United States law enforcement goals:

13 (A) prevention of drug smuggling and other
14 cross-border criminal activity;

15 (B) preventing illegal immigration; and

16 (C) preventing the illegal entry of goods into
17 the United States (including goods the sale of which
18 is illegal in the United States, the entry of which
19 would cause a quota to be exceeded, or which have
20 not paid the appropriate duty or tariff).

21 (2) The appointments described in paragraph (1)
22 shall be made only to the extent there is capacity in such
23 academies beyond what is required to train United States
24 citizens needed in the Border Patrol and Customs Service,
25 and only of personnel from a country with which the pris-

1 oner transfer treaty has been stated to be effective in the
2 most recent report referred to in subsection (d).

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section.

6 **SEC. 413. PRISONER TRANSFER TREATIES STUDY.**

7 (a) REPORT TO CONGRESS.—Not later than 180 days
8 after the date of the enactment of this Act, the Secretary
9 of State and the Attorney General shall submit to the Con-
10 gress a report that describes the use and effectiveness of
11 the prisoner transfer treaties with the three countries with
12 the greatest number of their nationals incarcerated in the
13 United States in removing from the United States such
14 incarcerated nationals.

15 (b) USE OF TREATY.—The report under subsection
16 (a) shall include—

17 (1) the number of aliens convicted of a criminal
18 offense in the United States since November 30,
19 1977, who would have been or are eligible for trans-
20 fer pursuant to the treaties;

21 (2) the number of aliens described in paragraph
22 (1) who have been transferred pursuant to the trea-
23 ties;

1 (3) the number of aliens described in paragraph
2 (2) who have been incarcerated in full compliance
3 with the treaties;

4 (4) the number of aliens who are incarcerated
5 in a penal institution in the United States who are
6 eligible for transfer pursuant to the treaties; and

7 (5) the number of aliens described in paragraph
8 (4) who are incarcerated in Federal, State, and local
9 penal institutions in the United States.

10 (c) RECOMMENDATIONS.—The report under sub-
11 section (a) shall include the recommendations of the Sec-
12 retary of State and the Attorney General to increase the
13 effectiveness and use of, and full compliance with, the
14 treaties. In considering the recommendations under this
15 subsection, the Secretary and the Attorney General shall
16 consult with such State and local officials in areas dis-
17 proportionately impacted by aliens convicted of criminal
18 offenses as the Secretary and the Attorney General con-
19 sider appropriate. Such recommendations shall address—

20 (1) changes in Federal laws, regulations, and
21 policies affecting the identification, prosecution, and
22 deportation of aliens who have committed a criminal
23 offense in the United States;

24 (2) changes in State and local laws, regulations,
25 and policies affecting the identification, prosecution,

1 and deportation of aliens who have committed a
 2 criminal offense in the United States;

3 (3) changes in the treaties that may be nec-
 4 essary to increase the number of aliens convicted of
 5 crimes who may be transferred pursuant to the trea-
 6 ties;

7 (4) methods for preventing the unlawful reentry
 8 into the United States of aliens who have been con-
 9 victed of criminal offenses in the United States and
 10 transferred pursuant to the treaties;

11 (5) any recommendations by appropriate offi-
 12 cials of the appropriate government agencies of such
 13 countries regarding programs to achieve the goals
 14 of, and ensure full compliance with, the treaties;

15 (6) whether the recommendations under this
 16 subsection require the renegotiation of the treaties;
 17 and

18 (7) the additional funds required to implement
 19 each recommendation under this subsection.

20 **SEC. 414. USING ALIEN FOR IMMORAL PURPOSES, FILING**
 21 **REQUIREMENT.**

22 Section 2424 of title 18, United States Code, is
 23 amended by—

24 (1) in the first paragraph of subsection (a)—

25 (A) by striking “alien”;

1 (B) by inserting after “individual” the first
2 time it appears “, knowing or in reckless dis-
3 regard of the fact that said individual is an
4 alien,”; and

5 (C) by striking “within three years after
6 that individual has entered the United States
7 from any country, party to the arrangement
8 adopted July 25, 1902, for the suppression of
9 the white-slave traffic”;

10 (2) in the second paragraph of subsection (a)—

11 (A) by striking “thirty” and inserting “five
12 business”; and

13 (B) by striking “within three years after
14 that individual has entered the United States
15 from any country, party to the said arrange-
16 ment for the suppression of the white slave
17 traffic”;

18 (3) in the third paragraph of subsection (a),
19 striking “two” and inserting “ten”; and

20 (4) in subsection (b), by striking the period
21 after “failing to comply with this section” and in-
22 serting “, or for enforcement of the provisions of
23 section 274A of the Immigration and Nationality
24 Act.”.

1 **SEC. 415. TECHNICAL CORRECTIONS TO VIOLENT CRIME**
 2 **CONTROL ACT AND TECHNICAL CORREC-**
 3 **TIONS ACT.**

4 (a)(1) Section 130003(c)(1) of the Violent Crime
 5 Control Act of 1994 (Public Law 103–322) is amended
 6 by striking “a new subsection (i)” and inserting “a new
 7 subsection (j)”.

8 (2) The amendment made by this subsection shall be
 9 effective as if originally included in section 130003(c)(1)
 10 of such Act.

11 (b)(1) Section 242A(d)(4) (8 U.S.C. 1252a(d)(4)), as
 12 added by section 224 of the Immigration and Nationality
 13 Technical Corrections Act of 1994 (Public Law 103–416),
 14 but as redesignated as section 242A(c)(4), by section 165
 15 of this Act, is amended by striking “without a decision
 16 on the merits”.

17 (2) The amendment made by this subsection shall be
 18 effective as if originally included in section 223 of such
 19 Act.

20 **TITLE V—WELFARE ELIGIBILITY**

21 **SEC. 501. INELIGIBILITY OF EXCLUDABLE, DEPORTABLE,**
 22 **AND NONIMMIGRANT ALIENS.**

23 (a) PUBLIC ASSISTANCE AND BENEFITS.—

24 (1) IN GENERAL.—Notwithstanding any other
 25 provision of law, an ineligible alien (as defined in
 26 subsection (e)(2)) shall not be eligible to receive any

1 benefits under any program of assistance provided
2 or funded, in whole or in part, by the Federal Gov-
3 ernment or any State or local government entity, for
4 which eligibility for benefits is based on need, or to
5 receive any grant, contract, loan, professional li-
6 cense, or commercial license provided or funded by
7 any agency of the United States or any State or
8 local government entity, except—

9 (A) emergency medical services under title
10 XIX of the Social Security Act,

11 (B) short-term, non-cash, in kind, emer-
12 gency disaster relief,

13 (C) assistance or benefits under the Na-
14 tional School Lunch Act,

15 (D) assistance or benefits under the Child
16 Nutrition Act of 1966,

17 (E) public health assistance for immuniza-
18 tions and, if the Secretary of Health and
19 Human Services determines that it is necessary
20 to prevent the spread of a serious commu-
21 nicable disease, for testing and treatment for
22 such diseases, and

23 (F) with respect to nonimmigrants author-
24 ized to work in the United States, professional
25 or commercial licenses required to engage in

1 such work, if such nonimmigrants are otherwise
2 qualified for such licenses.

3 (2) BENEFITS OF RESIDENCE.—Notwithstand-
4 ing any other provision of law, no State or local gov-
5 ernment entity shall consider any ineligible alien as
6 a resident when to do so would place such alien in
7 a more favorable position, regarding access to, or
8 the cost of, any benefit or government service, than
9 a United States citizen who is not regarded as such
10 a resident.

11 (3) NOTIFICATION OF ALIENS.—(A) The agency
12 administering a program referred to in paragraph
13 (1) or (2) shall, directly or, in the case of a Federal
14 agency, through the States, notify individually or by
15 public notice, all ineligible aliens who receive benefits
16 under the program on the date of the enactment of
17 this Act and whose eligibility for the program is ter-
18 minated by reason of this subsection.

19 (B) Nothing in subparagraph (A), may con-
20 strued to require, or authorize, that, if the notice re-
21 quired in such paragraph is not given, such eligi-
22 bility not be so terminated.

23 (b) UNEMPLOYMENT BENEFITS.—Notwithstanding
24 any other provision of law, only eligible aliens who have
25 been granted employment authorization pursuant to Fed-

1 eral law, and United States citizen or nationals, may re-
2 ceive any portion of unemployment benefits payable out
3 of Federal funds, and such eligible aliens may receive only
4 the portion of such benefits which is attributable to the
5 authorized employment.

6 (c) SOCIAL SECURITY BENEFITS.—(1) Notwith-
7 standing any other provision of law, only eligible aliens
8 who have been granted employment authorization pursu-
9 ant to Federal law and United States citizen or nationals
10 may receive any benefit under title II of the Social Secu-
11 rity Act, and such eligible aliens may receive only the por-
12 tion of such benefits which is attributable to the author-
13 ized employment.

14 (2) Notwithstanding any other provision of law, no
15 tax or other contribution required under the Social Secu-
16 rity Act, paid by any alien other than an eligible alien who
17 has been granted employment authorization pursuant to
18 Federal law, or by an employer of such alien, shall be re-
19 funded or reimbursed, in whole or in part.

20 (d) HOUSING ASSISTANCE PROGRAMS.—Not later
21 than 90 days after the date of the enactment of this Act,
22 the Secretary of Housing and Urban Development shall
23 submit a report to the Committee on the Judiciary of the
24 Senate, the Committee on the Judiciary of the House of
25 Representatives, the Committee on Banking, Housing,

1 and Urban Affairs of the Senate, and the Committee on
 2 Banking and Financial Services of the House of Rep-
 3 resentatives describing the manner in which the Secretary
 4 is enforcing section 214 of the Housing and Community
 5 Development Act of 1980 and containing statistics with
 6 respect to the number of individuals denied financial as-
 7 sistance under such section.

8 (e) DEFINITIONS.—For the purposes of this sec-
 9 tion—

10 (1) ELIGIBLE ALIEN.—The term “eligible
 11 alien” means an individual who is—

12 (A) an alien lawfully admitted for perma-
 13 nent residence,

14 (B) an alien granted asylum, within 5
 15 years of the grant of asylum,

16 (C) a refugee, within 5 years of the indi-
 17 vidual’s date of entry into the United States,

18 (D) an alien whose deportation has been
 19 withheld under section 243(h) of the Immigra-
 20 tion and Nationality Act, within 5 years of the
 21 withholding of deportation, or

22 (E) a parolee who has been paroled for a
 23 period of 1 year or more.

24 (2) INELIGIBLE ALIEN.—The term “ineligible
 25 alien” means an individual who is not—

- 1 (A) a United States citizen or national; or
 2 (B) an eligible alien.

3 **SEC. 502. DEFINITION OF “PUBLIC CHARGE” FOR PUR-**
 4 **POSES OF DEPORTATION.**

5 (a) IN GENERAL.—Section 241(a)(5) (8 U.S.C.
 6 1251(a)(5)) is amended to read as follows:

7 “(5) PUBLIC CHARGE.—

8 “(A) IN GENERAL.—Any alien who during
 9 the public charge period has become a public
 10 charge, regardless of when the cause arose, is
 11 deportable.

12 “(B) EXCEPTIONS.—An alien is not sub-
 13 ject to subparagraph (A) if the alien is a refu-
 14 gee or has been granted asylum, or if—

15 “(i) the cause of the alien’s becoming
 16 a public charge arose after entry or, in the
 17 case of an alien who entered as a non-
 18 immigrant, after adjustment to lawful per-
 19 manent resident status, and

20 “(ii) was a physical illness, or physical
 21 injury, so serious the alien could not work
 22 at any job, or a mental disability that re-
 23 quired continuous hospitalization.

24 “(C) DEFINITIONS.—

1 “(i) PUBLIC CHARGE PERIOD.—For
2 purposes of subparagraph (A), the term
3 ‘public charge period’ shall mean the pe-
4 riod beginning on the date the alien en-
5 tered the United States and ending, for an
6 alien who entered the United States as an
7 immigrant, 5 years after entry, or, for an
8 alien who entered the United States as a
9 nonimmigrant, 5 years after the alien ad-
10 justed to permanent resident status;

11 “(ii) PUBLIC CHARGE.—For purposes
12 of subparagraph (A), the term ‘public
13 charge’ shall include any alien who receives
14 benefits under any of the programs de-
15 scribed in subparagraph (D) for more than
16 an aggregate of 12 months.

17 “(D) PROGRAMS DESCRIBED.—The pro-
18 grams described in this subparagraph are the
19 following:

20 “(i) The aid to families with depend-
21 ent children program under title IV of the
22 Social Security Act.

23 “(ii) The medicaid program under
24 title XIX of the Social Security Act.

1 “(iii) The food stamp program under
2 the Food Stamp Act of 1977.

3 “(iv) The supplemental security in-
4 come program under title XVI of the So-
5 cial Security Act.

6 “(v) Any State general assistance pro-
7 gram.

8 “(vi) any other program of assistance
9 funded, in whole or in part, by the Federal
10 Government or any State or local govern-
11 ment entity, for which eligibility for bene-
12 fits is based on need, except the programs
13 listed as exceptions in section 201(a)(1) of
14 the Immigration Reform Act of 1995.”.

15 (b) CONSTRUCTION.—Nothing in subparagraph (B),
16 (C), or (D) of section 241(a)(5) of the Immigration and
17 Nationality Act may be construed to invalidate other fac-
18 tual bases for consideration of an alien as a public charge
19 which were in effect on the day before the date of the en-
20 actment of this Act.

21 (c) REVIEW OF STATUS.—(1) In reviewing any appli-
22 cation by an alien for benefits under section 216, section
23 245, or chapter 2 of title III of the Immigration and Na-
24 tionality Act, the Attorney General shall determine wheth-

1 er or not the applicant is described in section 241(a)(5)(A)
2 of such Act.

3 (2) If the Attorney General determines that an alien
4 is described in section 241(a)(5)(A) of such Act, the Attor-
5 ney General shall deny such application and shall institute
6 deportation proceedings with respect to such alien, unless
7 the Attorney General exercises discretion to withhold or
8 suspend deportation pursuant to any other section of such
9 Act.

10 (d) EFFECTIVE DATE.—This section shall apply to
11 aliens who enter the United States after the date of the
12 enactment of this Act and to aliens who entered as
13 nonimmigrants before such date but adjust or apply to
14 adjust their status after such date.

15 **SEC. 503. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
16 **SUPPORT.**

17 (a) ENFORCEABILITY.—No affidavit of support may
18 be relied upon by the Attorney General or by any consular
19 officer to establish that an alien is not excludable as a
20 public charge under section 212(a)(4) of the Immigration
21 and Nationality Act unless such affidavit is executed as
22 a contract—

23 (1) which is legally enforceable against the
24 sponsor by the Federal Government and by any
25 State, district, territory, or possession of the United

1 States (or any subdivision of such State, district,
2 territory, or possession of the United States) which
3 provides any benefit described in section
4 241(a)(5)(D), but not later than 10 years after the
5 sponsored individual last receives any such benefit;

6 (2) in which the sponsor agrees to financially
7 support the sponsored individual, so that he or she
8 will not become a public charge, until the sponsored
9 individual—

10 (A) achieves United States citizenship
11 through naturalization pursuant to chapter 2 of
12 title III of the Immigration and Nationality
13 Act; or

14 (B)(i) has worked 40 qualifying quarters
15 of coverage as defined under title II of the So-
16 cial Security Act or can be credited with such
17 qualifying quarters as provided under section
18 436, and (ii) did not receive any Federal public
19 benefit as described in section 501(a)(1) during
20 any such quarter; and

21 (3) in which the sponsor agrees to submit to
22 the jurisdiction of any Federal or State court for the
23 purpose of actions brought under subsection (d) or
24 (e).

1 (b) FORMS.—Not later than 90 days after the date
 2 of enactment of this Act, the Secretary of State, the Attor-
 3 ney General, and the Secretary of Health and Human
 4 Services shall jointly formulate the affidavit of support de-
 5 scribed in this section.

6 (c) NOTIFICATION OF CHANGE OF ADDRESS.—(1)
 7 The sponsor shall notify the Attorney General and the
 8 State, district, territory, or possession in which the spon-
 9 sored individual is currently resident within 30 days of any
 10 change of address of the sponsor during the period speci-
 11 fied in subsection (a)(1).

12 (2) Any person subject to the requirement of para-
 13 graph (1) who fails to satisfy such requirement shall be
 14 subject to a civil penalty of—

15 (A) not less than \$250 or more than \$2,000, or

16 (B) if such failure occurs with knowledge that
 17 the sponsored individual has received any benefit de-
 18 scribed in section 241(a)(5)(D) of the Immigration
 19 and Nationality Act, not less than \$2,000 or more
 20 than \$5,000.

21 (d) REIMBURSEMENT OF GOVERNMENT EX-
 22 PENSES.—(1)(A) Upon notification that a sponsored indi-
 23 vidual has received any benefit described in section
 24 241(a)(5)(D) of the Immigration and Nationality Act, the
 25 appropriate Federal, State, or local official shall request

1 reimbursement by the sponsor in the amount of such as-
2 sistance.

3 (B) The Attorney General, in consultation with the
4 Secretary of Health and Human Resources, shall prescribe
5 such regulations as may be necessary to carry out sub-
6 paragraph (A). Such regulations shall provide for notifica-
7 tion to the sponsor by certified mail to the sponsor's last
8 known address.

9 (2) If within 45 days after requesting reimbursement,
10 the appropriate Federal, State, or local agency has not
11 received a response from the sponsor indicating a willing-
12 ness to commence payments, an action may be brought
13 against the sponsor pursuant to the affidavit of support.

14 (3) If the sponsor fails to abide by the repayment
15 terms established by such agency, the agency may, within
16 60 days of such failure, bring an action against the spon-
17 sor pursuant to the affidavit of support.

18 (4) No cause of action may be brought under this
19 subsection later than 10 years after the sponsored individ-
20 ual last received any benefit described in section
21 241(a)(5)(D).

22 (5) If pursuant to the terms of this subsection, a Fed-
23 eral, State, or local agency requests reimbursement from
24 the sponsor in the amount of assistance provided, or
25 brings an action against the sponsor pursuant to the affi-

1 davit of support, the appropriate agency may appoint or
2 hire an individual or other person to act on behalf of such
3 agency acting under the authority of law for purposes of
4 collecting any moneys owed. Nothing in this subsection
5 shall preclude any appropriate Federal, State, or local
6 agency from directly requesting reimbursement from a
7 sponsor for the amount of assistance provided, or from
8 bringing an action against a sponsor pursuant to an affi-
9 davit of support.

10 (e) JURISDICTION.—(1) An action to enforce an affi-
11 davit of support executed under section 203(a) of this Act
12 may be brought against the sponsor in any Federal or
13 State court by a Federal, State, or local agency, with re-
14 spect to reimbursement.

15 (2) For purposes of this section, no Federal or State
16 court shall decline for lack of subject matter or personal
17 jurisdiction to hear any action brought against a sponsor
18 under paragraph (1) if the sponsored individual is a resi-
19 dent of the State in which the court is located, or received
20 public assistance while residing in the State.

21 (f) DEFINITIONS.—For the purposes of this section—

22 (1) the term “sponsor” means an individual
23 who—

1 (A) is a United States citizen or national
 2 or an alien who is lawfully admitted to the
 3 United States for permanent residence;

4 (B) is 18 years of age or over; and

5 (C) is domiciled in any of the several
 6 States of the United States, the District of Co-
 7 lumbia, or any territory or possession of the
 8 United States; and

9 (2) the term “qualifying quarter” means a
 10 three-month period in which the sponsored individ-
 11 ual has—

12 (A) earned at least the minimum necessary
 13 for the period to count as one of the 40 quar-
 14 ters required to qualify for social security re-
 15 tirement benefits;

16 (B) not received need-based public assist-
 17 ance; and

18 (C) had income tax liability for the tax
 19 year of which the period was part.

20 **SEC. 504. ATTRIBUTION OF SPONSOR’S INCOME AND RE-**
 21 **SOURCES TO FAMILY-SPONSORED IMMI-**
 22 **GRANTS.**

23 (a) **DEEMING REQUIREMENT FOR FEDERAL AND**
 24 **FEDERALLY FUNDED PROGRAMS.**—For purposes of de-
 25 termining the eligibility of a sponsored individual for bene-

1 fits, and the amount of benefits, under any Federal pro-
2 gram of assistance, or any program of assistance funded
3 in whole or in part by the Federal Government, for which
4 eligibility is based on need, the income and resources de-
5 scribed in subsection (b) shall, notwithstanding any other
6 provision of law, be deemed to be the income and resources
7 of such individual.

8 (b) DEEMED INCOME AND RESOURCES.—The income
9 and resources referred to in subsection (a) include—

10 (1) the income and resources of any person
11 who, as a sponsor of such individual's entry into the
12 United States, or in order to enable such individual
13 lawfully to remain in the United States, executed an
14 affidavit of support or similar agreement with re-
15 spect to such individual, and

16 (2) the income and resources of the sponsor's
17 spouse.

18 (c) LENGTH OF DEEMING PERIOD.—The require-
19 ment of subsection (a) shall apply—

20 (1) for the period for which the sponsor has
21 agreed, in such affidavit or agreement, to provide
22 support for such individual, or for a period of 5
23 years beginning on the day such individual was first
24 lawfully in the United States after the execution of

1 such affidavit or agreement, whichever period is
2 longer, or

3 (2) until such time as the sponsored individual
4 achieves United States citizenship through natu-
5 ralization pursuant to chapter 2 of title III of the
6 Immigration and Nationality Act,
7 whichever first occurs.

8 (d) DEEMING AUTHORITY TO STATE AND LOCAL
9 AGENCIES.—(1) For purposes of determining the eligi-
10 bility of a sponsored individual for benefits, and the
11 amount of benefits, under any State or local program of
12 assistance for which eligibility is based on need, or any
13 need-based program of assistance administered by a State
14 or local government other than a program described in
15 subsection (a), the State or local government may, not-
16 withstanding any other provision of law, require that the
17 income and resources described in paragraph (2) be
18 deemed to be the income and resources of such individual.

19 (2) The income and resources referred to in para-
20 graph (1) include—

21 (A) the income and resources of any person
22 who, as a sponsor of such individual's entry into the
23 United States, or in order to enable such individual
24 lawfully to remain in the United States, executed an

1 affidavit of support or similar agreement with re-
 2 spect to such individual, and

3 (B) the income and resources of the sponsor's
 4 spouse.

5 (3) A State or local government may impose a re-
 6 quirement described in paragraph (1)—

7 (A) for the period for which the sponsor has
 8 agreed, in such affidavit or agreement, to provide
 9 support for such individual, or for a period of 5
 10 years beginning on the day such individual was first
 11 lawfully in the United States after the execution of
 12 such affidavit or agreement, whichever period is
 13 longer, or

14 (B) until such time as the sponsored individual
 15 achieves United States citizenship through natu-
 16 ralization pursuant to chapter 2 of title III of the
 17 Immigration and Nationality Act,
 18 whichever first occurs.

19 **SEC. 505. AUTHORITY TO STATES AND LOCALITIES TO**
 20 **LIMIT ASSISTANCE TO ALIENS AND TO DIS-**
 21 **TINGUISH AMONG CLASSES OF ALIENS IN**
 22 **PROVIDING GENERAL PUBLIC ASSISTANCE.**

23 (a) IN GENERAL.—Subject to subsection (b) and not-
 24 withstanding any other provision of law, a State or local
 25 government may prohibit or otherwise limit or restrict the

1 eligibility of aliens or classes of aliens for programs of gen-
 2 eral cash public assistance furnished under the law of the
 3 State or a political subdivision of a State.

4 (b) LIMITATION.—The authority under subsection (a)
 5 may be exercised only to the extent that any prohibitions,
 6 limitations, or restrictions are not more restrictive than
 7 comparable Federal programs. For the purposes of this
 8 section, attribution to an alien of a sponsor’s income and
 9 resources for purposes of determining the eligibility for
 10 and amount of benefits of an alien shall be considered less
 11 restrictive than a prohibition of eligibility.

12 **SEC. 506. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT A CITIZEN OR LAWFUL PERMANENT RESIDENT.**

15 (a) IN GENERAL.—(1) Notwithstanding any other
 16 provision of law, no individual may receive an earned in-
 17 come tax credit for any year in which such individual was
 18 not, for the entire tax year, either a United States citizen
 19 or national or a lawful permanent resident alien.

20 (2) Section 32(c)(1) of the Internal Revenue Code of
 21 1986 (relating to individuals eligible to claim the earned
 22 income tax credit) is amended by adding at the end the
 23 following new subparagraph:

24 “(F) IDENTIFICATION NUMBER REQUIRE-
 25 MENT.—The term ‘eligible individual’ does not

1 include any individual who does not include on
 2 the return of tax for the taxable year—

3 “(i) such individual’s taxpayer identi-
 4 fication number, and

5 “(ii) if the individual is married (with-
 6 in the meaning of section 7703), the tax-
 7 payer identification number of such indi-
 8 vidual’s spouse.”.

9 (b) SPECIAL IDENTIFICATION NUMBER.—Section 32
 10 of the Internal Revenue Code of 1986 is amended by add-
 11 ing at the end the following new subsection:

12 “(k) IDENTIFICATION NUMBERS.—Solely for pur-
 13 poses of subsections (c)(1)(F) and (c)(3)(D), a taxpayer
 14 identification number means a social security number is-
 15 sued to an individual by the Social Security Administra-
 16 tion (other than a social security number issued pursuant
 17 to clause (II) (or that portion of clause (III) that relates
 18 to clause (II)) of section 205(c)(2)(B)(i) of the Social Se-
 19 curity Act).”.

20 (c) EXTENSION OF PROCEDURES APPLICABLE TO
 21 MATHEMATICAL OR CLERICAL ERRORS.—Section
 22 6213(g)(2) of the Internal Revenue Code of 1986 (relating
 23 to the definition of mathematical or clerical errors) is
 24 amended—

1 (1) by striking “and” at the end of subpara-
2 graph (D),

3 (2) by striking the period at the end of sub-
4 paragraph (E) and inserting “, and”, and

5 (3) by inserting after subparagraph (E) the fol-
6 lowing new subparagraph:

7 “(F) an unintended omission of a correct
8 taxpayer identification number required under
9 section 23 (relating to credit for families with
10 younger children) or section 32 (relating to the
11 earned income tax credit) to be included on a
12 return.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1995.

16 **SEC. 507. INCREASED MAXIMUM CRIMINAL PENALTIES FOR**
17 **FORGING OR COUNTERFEITING SEAL OF A**
18 **FEDERAL DEPARTMENT OR AGENCY TO FA-**
19 **CILITATE BENEFIT FRAUD BY AN UNLAWFUL**
20 **ALIEN.**

21 Section 506 of title 18, United States Code, is
22 amended to read as follows:

23 **“§ 506. Seals of departments or agencies**

24 “(a) Whoever—

1 “(1) falsely makes, forges, counterfeits, muti-
2 lates, or alters the seal of any department or agency
3 of the United States, or any facsimile thereof;

4 “(2) knowingly uses, affixes, or impresses any
5 such fraudulently made, forged, counterfeited, muti-
6 lated, or altered seal or facsimile thereof to or upon
7 any certificate, instrument, commission, document,
8 or paper of any description; or

9 “(3) with fraudulent intent, possesses, sells, of-
10 fers for sale, furnishes, offers to furnish, gives away,
11 offers to give away, transports, offers to transport,
12 imports, or offers to import any such seal or fac-
13 simile thereof, knowing the same to have been so
14 falsely made, forged, counterfeited, mutilated, or al-
15 tered,

16 shall be fined under this title, or imprisoned not more than
17 5 years, or both.

18 “(b) Notwithstanding subsection (a) or any other
19 provision of law, if a forged, counterfeited, mutilated, or
20 altered seal of a department or agency of the United
21 States, or any facsimile thereof, is—

22 “(1) so forged, counterfeited, mutilated, or al-
23 tered;

1 “(2) used, affixed, or impressed to or upon any
 2 certificate, instrument, commission, document, or
 3 paper of any description; or

4 “(3) with fraudulent intent, possessed, sold, of-
 5 fered for sale, furnished, offered to furnish, given
 6 away, offered to give away, transported, offered to
 7 transport, imported, or offered to import,

8 with the intent or effect of facilitating an unlawful alien’s
 9 application for, or receipt of, a Federal benefit, the pen-
 10 alties which may be imposed for each offense under sub-
 11 section (a) shall be two times the maximum fine, and 3
 12 times the maximum term of imprisonment, or both, that
 13 would otherwise be imposed for an offense under sub-
 14 section (a).

15 “(c) For purposes of this section—

16 “(1) the term ‘Federal benefit’ means—

17 “(A) the issuance of any grant, contract,
 18 loan, professional license, or commercial license
 19 provided by any agency of the United States or
 20 by appropriated funds of the United States; and

21 “(B) any retirement, welfare, Social Secu-
 22 rity, health (including treatment of an emer-
 23 gency medical condition in accordance with sec-
 24 tion 1903(v) of the Social Security Act (19
 25 U.S.C. 1396b(v))), disability, veterans, public

1 housing, education, food stamps, or unemploy-
 2 ment benefit, or any similar benefit for which
 3 payments or assistance are provided by an
 4 agency of the United States or by appropriated
 5 funds of the United States;

6 “(2) the term ‘unlawful alien’ means an individ-
 7 ual who is not—

8 “(A) a United States citizen or national;

9 “(B) an alien lawfully admitted to the
 10 United States for permanent residence;

11 “(C) an alien granted asylum;

12 “(D) a refugee;

13 “(E) an alien whose deportation has been
 14 withheld under section 243(h) of the Immigra-
 15 tion and Nationality Act; or

16 “(F) a parolee who has been paroled for a
 17 period of 1 year or more; and

18 “(3) each instance of forgery, counterfeiting,
 19 mutilation, or alteration shall constitute a separate
 20 offense under this section.”.

21 **SEC. 508. STATE OPTION UNDER THE MEDICAID PROGRAM**
 22 **TO PLACE ANTI-FRAUD INVESTIGATORS IN**
 23 **HOSPITALS.**

24 (a) IN GENERAL.—Section 1902(a) of the Social Se-
 25 curity Act (42 U.S.C. 1396a(a)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (61);

3 (2) by striking the period at the end of para-
4 graph (62) and inserting “and”; and

5 (3) by adding after paragraph (62) the follow-
6 ing new paragraph:

7 “(63) in the case of a State that is certified by
8 the Attorney General as a high illegal immigration
9 State (as determined by the Attorney General), at
10 the option of the State, establish and operate a pro-
11 gram for the placement of anti-fraud investigators in
12 State, county, and private hospitals located in the
13 State to verify the immigration status and income
14 eligibility of applicants for medical assistance under
15 the State plan prior to the furnishing of medical as-
16 sistance.”.

17 (b) PAYMENT.—Section 1903 of such Act (42 U.S.C.
18 1396b) is amended—

19 (1) by striking “plus” at the end of paragraph
20 (6);

21 (2) by striking the period at the end of para-
22 graph (7) and inserting “plus”; and

23 (3) by adding at the end the following new
24 paragraph:

1 “(8) an amount equal to the Federal medical
 2 assistance percentage (as defined in section 1905(b))
 3 of the total amount expended during such quarter
 4 which are attributable to operating a program under
 5 section 1902(a)(63).”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 subsection (a) shall take effect on the first day of the first
 8 calendar quarter beginning after the date of the enactment
 9 of this Act.

10 **SEC. 509. LIMITATION ON THE AWARD OF COSTS AND FEES.**

11 (a) LIMITATION.—Section 2412 of title 28, United
 12 States Code, is amended by adding at the end the follow-
 13 ing new subsection:

14 “(g) Costs, fees, or expenses shall not be awarded
 15 under this section in any civil action brought by or on be-
 16 half of any individual who is not a United States citizen
 17 or national or alien who is a lawful permanent resident
 18 alien of the United States.”.

19 (b) EFFECTIVE DATE.—The amendments made by
 20 subsection (a) shall be effective upon the date of enact-
 21 ment of this Act and shall apply to all judgments entered
 22 and civil actions commenced thereafter.

23 **SEC. 510. COMPUTATION OF TARGETED ASSISTANCE.**

24 Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended
 25 by adding at the end the following new subparagraph:

1 “(C) Except for the Targeted Assistance Ten Percent
 2 Discretionary Program, all grants made available under
 3 this paragraph for a fiscal year shall be allocated by the
 4 Office of Refugee Resettlement in a manner that ensures
 5 that each qualifying county shall receive the same amount
 6 of assistance for each refugee and entrant residing in the
 7 county as of the beginning of the fiscal year who arrived
 8 in the United States not more than 60 months prior to
 9 such fiscal year.”.

10 **TITLE VI—EFFECTIVE DATES**

11 **SEC. 601. EFFECTIVE DATES.**

12 Except as otherwise provided in this Act, this Act
 13 shall take effect on the date on enactment.



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S 1535 IS1S—3

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